

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

FRANK PHILLIP KALITA, Jr.,

Plaintiff,

v.

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CIVIL ACTION NO. 1:07CV73  
(Judge Keeley)

FEDERAL BUREAU OF PRISONS;  
HARLEY LAPPIN, Director;  
WARDEN JOYCE FRANCIS;  
D. HEADY, Unit Manager;  
S. CARR, Case Manager;  
G. SHERWOOD, CCM Coord,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On May 30, 2007, the pro se plaintiff filed this case by filing a civil rights complaint pursuant to Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971), a case in which the United States Supreme Court created a counterpart to 42 U.S.C. § 1983 and authorized suits against federal employees in their individual capacities. The plaintiff also filed a motion for compensatory and punitive damages (dkt. no. 22). On October 24, 2007, United States Magistrate Judge James E. Seibert entered a Report and Recommendation ("R&R") recommending that this Court dismiss the plaintiff's complaint with prejudice under 28 U.S.C. §§ 1915(e) & 1915A for failure to state a claim and that this Court deny plaintiff's motion.

The Report and Recommendation also specifically warned the parties that failure to object to the recommendation would result in the waiver of appellate rights on this issue. Nevertheless, no

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objections were filed.<sup>1</sup>

Consequently, the Court **ADOPTS** the Report and Recommendation in its entirety, **DISMISSES** the complaint **WITH PREJUDICE**, **DENIES** plaintiff's motion (dkt. no. 22), and **STRIKES** this case from the docket of this Court.

The Clerk is directed to mail a copy of this Order to the pro se petitioner, certified mail, return receipt requested, and to transmit a copy to counsel of record.

Dated: November 8, 2007.

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issues presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).